

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

SECURITIES AND EXCHANGE)
COMMISSION,)
Plaintiff,)
v.) Civil Action No. 21-cv-00260
)
LBRY, INC.,)
Defendant.)

Assented-To Motion to Extend Time to File a Motion Pursuant to Fed. R. Civ. P. 12(f)

Plaintiff Securities and Exchange Commission (the “Commission”), with the assent of defendant LBRY, Inc. (“LBRY”), respectfully requests that the Court extend the date by which the Commission must file a motion to strike pursuant to Federal Rule of Civil Procedure 12(f) from June 28, 2021 to July 12, 2021. As grounds for this motion, the Commission states as follows:

1. On March 29, 2021, the Commission filed its complaint. Dkt. No. 1.
2. On June 7, 2021, LBRY answered the complaint and raised a number of affirmative defenses. Dkt. No. 13. Among others, LBRY asserts that the Commission’s action represents “impermissible selective enforcement” and that “LBRY did not have fair notice of whether its sales of LBC constituted securities . . .” Dkt. No. 13, at 32 (Third Affirmative Defense), and 34 (Fourth Affirmative Defense).
3. The Commission may file a motion for a judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) and/or a motion to strike pursuant to Fed. R. Civ. P. 12(f) as to one or both of those affirmative defenses.

4. A motion to strike the defenses would otherwise be due on June 28, 2021.¹ The Commission seeks leave of Court to file any motion pursuant to Fed. R. Civ. P. 12(f) by July 12, 2021.
5. The requested extension will afford the Commission additional time to determine whether a motion to strike may assist the Court in disposing of one or more of the defendant's affirmative defenses or would otherwise narrow the issues to be explored during discovery.
6. The Commission certifies, pursuant to Local Rule 7.2, that the relief requested herein will not result in the continuance of any other date in this matter.
7. LBRY assents to the relief requested herein.

For the reasons set forth above, the Commission respectfully requests that the Court extend the date by which any motion to strike is due from June 28, 2021 to July 12, 2021.

Dated: June 24, 2021

Respectfully submitted,

**SECURITIES AND EXCHANGE
COMMISSION**

By its Attorneys,

/s/ Eric A. Forni

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¹ See Fed. R. Civ. P. 12(f)(2) (motions to strike due 21 days after being served with the pleading; here, LBRY's answer). A motion on the pleadings pursuant to Fed. R. Civ. P. 12(c) must be filed "early enough not to delay trial."